

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

September 24, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 24, 2009, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: G. Nelson Van Fleet, Chair; Debra Miller Stevens, Vice Chair; David Dennis; Darrell Downing; Shawn Farney; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; M.S. Mitchell and Don Sherman (In @1:34 P.M.). Joe Johnson and John W. McKay Jr. were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Dave Barber; Advance Plans Manager; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Joe Lang, Chief Deputy City Attorney; Bob Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the September 10, 2009 MAPC minutes:

MOTION: To approve the September 10, 2009 Minutes as amended.

MITCHELL moved, **HILLMAN** seconded the motion, and it carried (11-0).

SHERMAN (In @1:34 P.M.)

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

- 2-1. **SUB 2003-02: Final Plat -- HEARTLAND PREPAREDNESS CENTER ADDITION,**
located on the east side of Hydraulic and south of 29th Street North. (MAPC Deferred September 10, 2009)

NOTE: This is an unplatted site located within the City. The applicant will be requesting a Conditional Use for safety services.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department has required the applicant to guarantee the extension of water (transmission and distribution mains) and sewer (mains and laterals) to serve the lot being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering has requested revisions to the drainage plan.
- D. A guarantee shall be provided for a turnaround for the terminus of New York Avenue.
- E. The adopted 2008 Wichita Park, Recreation, and Open Space Plan (PROS Plan) identifies the need for a pathway to connect the existing I-135 and K-96 bike paths. The Subdivision Committee has

approved a contingent public access easement along the west line of the plat, extending south from Hydraulic.

- F. Complete access control has been denoted along the south portion of Lot 1. Access control needs to be defined along the remainder of the frontage.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Westar Energy has requested additional easements. An existing KGE easement shown on the preliminary plat along the east property line also needs to be denoted on the final tracing.
- P. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

NEIL STRAHL, Planning Staff reported that Storm Water Engineering has approved the drainage plan subject to revisions prior to scheduling for City Council.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **B. JOHNSON** seconded the motion, and it carried (12-0).

2-2. SUB 2009-57: One-Step Final Plat -- FRANKLIN ESTATES ADDITION, located west of 247th Street West, north of 71st St South.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering has requested minimum pad elevations of 1318 on each lot. A floodway reserve needs to be denoted on the plat. The standard floodplain language needs to be referenced in the platlor’s text.
- E. A solid bold line should be used to denote the west line of the plat.
- F. The ingress and egress easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. Sedgwick County Fire Department advises that the ingress and egress easement shall be constructed and maintained to the requirements of the Sedgwick County Service Drive Code.
- H. On the final plat tracing, the MAPC signature block needs to reference “G. Nelson Van Fleet” as Chairman.
- I. In the platlor’s text, the word “may” needs to be spelled correctly within the FEMA language.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The platlor’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable

and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Sedgwick County Rural Electric Coop requests a 20-foot utility easement along the west property line.
- S. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

NEIL STRAHL, Planning Staff reported that County Engineering has approved the drainage plan for the plat.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **B. JOHNSON** seconded the motion, and it carried (12-0).

- 2-3. SUB 2009-58: One-Step Final Plat -- HOBBS VILLAGE ADDITION**, located west of Hydraulic, north of 47th Street South.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department requests a guarantee for the extension of water (transmission and distribution) mains and sewer (lateral) to serve all lots being platted. These improvements will be constructed through a private project.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. County Surveying requests a bearing on the south line of Lot 5.
- E. County Surveying requests a bearing on the north line of Lot 1.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. On the final plat tracing, the MAPC signature block needs to reference "G. Nelson Van Fleet" as Chairman.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and

sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **B. JOHNSON** seconded the motion, and it carried (12-0).

PUBLIC HEARINGS

- 3. **Case No.: CON2009-21** (Deferred from September 10, 2009) Daniel & Deborah McClure (owners) Fremar Corporation, c/o Pat Lemmons (agent) request City Conditional Use to remove dirt and pump sand in order to create a farm pond for personal use on property described as:

Starting at a point 60 feet north of the south line of the E1/2, NE 1/4, NW 1/4, S30-T28-R1E, the south 396 feet is the area to be considered for the conditional use permit.

The East half of the Northeast Quarter of the Northwest Quarter, except the North 305 feet, of Section 30, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, generally located approximately 1/4 mile east of Meridian Avenue on the south side of 55th Street South.

BACKGROUND: The applicant/owners propose to extract soil and sand from the SF-5 Single-family Residential ("SF-5") zoned, 15.47-acre, unplatted site. The proposed activities are classified by the Unified Zoning Code (UZC) as "Mining or Quarrying" and are permitted in the SF-5 zoning district with an approved Conditional Use. The UZC considers Mining or Quarrying an industrial use. The site is currently a field, located immediately south of the owners' SF-5 zoned single-family residence and three (3) other, SF-5 zoned single-family residences; Slades 1st Subdivision Addition. These four single-family residences separate the site from 55th Street South, by approximately 255 feet. As shown on the site plan, the site is currently fenced with barbed wire on the west, south and east sides and a combination of chain link and barbed wire on its north side; the fencing does not meet the standards for "mining or quarrying" of the UZC's Supplementary Use Regulations found in the Article III, Section III-D.6.gg. At the end of the soil and sand extraction the owners will have an approximately 4-acre, 25-foot deep pond, to be used as an amenity to their single-family residence.

The site plan shows two operational phases at the site. Phase I will be the excavation of soil, running from the middle of October to the middle of December. This excavation of soil could generate as many as 20 truck trips per day, Monday – Friday, 7 AM – 5PM. The soil will be used for the bridge work over the "Big Ditch" at Hydraulic Avenue and 71st Street South; KDOT project 87C4343-01. Phase II will be the pumping and removal of sand from the site. The sand will be used only for Fremar (applicant) projects. The pumps will operate 3 days a week, 7 AM – 5 PM. Removal of the sand will be as needed by Fremar's projects, Monday – Friday, 7 AM – 5 PM. The amount of truck trips generated depends on the projects, but could be less than 20 trips per day. Total time requested for all phases is 4 years. The relative small size to be excavated, 4-acres, 25 feet deep, coupled with the requested 4 years to do it and

having only one user, could mean less truck traffic per day generated off the site during Phase II of operations. When operations end, there will be a 4-acre pond (386 feet {x} 513 feet), 25 feet deep, to be used by the owners' existing single-family residence. The finished pond will be located 65 feet from the abutting southern property and 72 feet from the abutting western and eastern properties. The site has one access point, a shared, gravel drive onto 55th Street South.

Properties abutting the west, south and east sides of the site are zoned SF-20 Single-family Residential ("SF-20") and SF-5. These properties are agricultural fields and a farm house, built in 1920. As noted there are four, SF-5, single-family residences (built 1945 - 1981) abutting the north side of the site; staff has not received calls or input from these neighbors. North of these residences, across 55th Street South, is Campus High School and Ruth Clark Elementary School; USD 261. Merging of traffic generated by the schools and truck traffic on and off of the site is a consideration. Staff and the applicants/owners have spoken with the principals of both schools and the Superintendent/members of the Haysville School District, USD 261, in regards to traffic and other considerations. The City of Wichita's South Lakes Park is also located in the immediate area, on the north side of 55th and around the north and east sides of the USD 261 schools, over to Meridian Avenue.

CASE HISTORY: The site was annexed into the City of Wichita between 1991 and 2000. The site's zoning was probably established in 1985 with the adoption of a county-wide zoning code and subsequently changed to SF-5 upon annexation.

Update: As directed by the MAPC, a two-week deferral was given to the applicant and staff to resolve the MAPC's concerns over erosion around the sand pit's edges and the sand pit's impact on the airport in reference to it attracting birds. Storm Water has suggested using a temporary biodegradable erosion control mat to stabilize pond/pit side slopes, after slopes are final seeded and having the sides capped with 6-inches of top soil. Move the sand pit 125 feet from the abutting property lines. These will be added to the conditions of approval.

The site is located on the outside edge of the 5-mile perimeter of the "Hazardous Wildlife Attractants Overlay Zone," but outside of the more critical 10,000-foot perimeter and the approach paths; see exhibit Hazardous Wildlife Attractants Overlay Zone map. Staff and the applicant are waiting for direction from the Airport Authority in regards to this matter.

DAB IV approved the proposed Conditional Use. There have been no calls or written protest to the proposed Conditional Use.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, Haysville	Single-family residences, Campus High School, Ruth Clark Elementary School, park land
SOUTH:	SF-20, SF-5	Agricultural fields
EAST:	SF-5	Farm, Agricultural fields
WEST:	SF-20	Agricultural fields

PUBLIC SERVICES: All utilities are available, including municipally supplied sewer and water. Both 55th Street South and Meridian Avenue are paved two-lane County Highways/arterials at this location. 55th is projected to remain a two-lane arterial, while Meridian is projected to be a four-lane arterial. Average trips per along this portion of 55th are approximately 4,089. The 55th and Meridian intersection's average trips per day are approximately 7,277 – 4,089. There are 8 drives off of the two USD 261 schools onto 55th, with the applicants' drive located between the two most eastern drives of the elementary school. 55th currently has 50 feet of half-street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The site is on the east edge of rural, west Sedgwick County. The 2030 Wichita Functional Land Use Guide shows this area located inside of Wichita's 2030 Urban Growth Area and categorized as "Urban Development Mix." This category encompasses land that

is likely to be developed by the year 2030. Uses within this category include all types of residential, institutional, commercial, parks, and employment/industrial uses; this category is market driven, with a broad range of development possibilities. Soil and sand extraction is a use dependent on a natural resource; there are several older, finished sand pits in the area. The Wichita/Sedgwick County Comprehensive Plan's Locational Criteria indicates that industrial uses should be located with good access to major arterials, truck routes, belt highways, utility truck lines, rail spurs, and airports. The site has access to 55th Street South, an arterial. It is advisable not to locate a sand pit close to an airport, because of the number of birds they can attract and the potential hazard/conflict of birds and planes. An industrial use should not feed directly into local streets in residential areas. This site does not access a local street, but it will use a shared private drive that the owner and a neighbor use; Staff has not received calls from that neighbor. An industrial use should be located away from existing or planned residential areas and sited so as not to generate industrial traffic through less intensive land uses areas. The area has a mix of institutional, agricultural, urban and suburban single-family residential development; development that reflects the Urban Development Mix category. Truck traffic will go through a suburban – urban - rural landscape.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for soil and sand extraction operation be APPROVED, subject to the following conditions:

1. The UZC's Supplementary Use Regulations found in the Article III, Section III-D.6.gg shall be met unless modified as follows.
2. Install a temporary biodegradable erosion control mat to stabilize pond/pit side slopes, after slopes are final seeded and having the sides capped with 6-inches of top soil. Move the sand pit 125 feet from the abutting property lines.
3. Between October 2009 and December 2013, Monday – Friday, 7:00 AM – 5:00 PM no more than a total of 20 trucks leaving the site is permitted. All trucks shall leave the site going east on 55th Street South. All trucks shall enter the site from the west off of the 55th Street South – Meridian Avenue intersection going east on 55th. The applicant is required to post directional signs stating the above requirement on the site.
4. Truck traffic to and from the site will be limited to two (2) trucks between 7 AM – 8 AM and between 3 PM – 4 PM, which is the general hours when school begins and ends at both USD 261 schools. This will be enforced during the school year.
5. A commercial type driveway shall be installed, at the applicants' expense, which meets County standards.
6. Asphalt slag will be laid over the drive used by the trucks, including the internal drive where operations are staged.
7. Contact the County for signage alerting the area around the USD 261 schools about truck traffic. Signage will be at the applicants' expense.
8. In addition to other applicable enforcement remedies, if the Zoning Administrator finds that there is a violation of any of these conditions of approval, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is on the east edge of west, rural Sedgwick County, where it meets the cities of Wichita and Haysville. Zoning is a mix of SF-5 and SF-20 zoning, developed with urban sized single-family residential development or larger suburban size lots. Agricultural fields also occupy both SF-5 and SF-20 zoned properties. The City of Haysville's Campus High School and Ruth Clark Elementary School are located across 55th Street South. The City of Wichita's South Lakes Park is also located in the immediate area, on the north side of 55th around the north and east sides of the USD 261 schools over to Meridian Avenue.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 Single-family Residential, which permits primarily single-family residences. The 15.47-acre site is currently an agricultural field, which is not out of character with the area, but could be platted and developed as single-family residential, as permitted by its current SF-5 zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the requested Conditional Use will introduce a use not currently found in the immediate area. An increase in truck traffic by up to 20 trips a day, to and from the site, during Phase I of operations (soil extraction) is almost certain from mid October to mid December. The relative small size to be excavated, 4-acres, 25 feet deep, coupled with the requested 4 years to do it and having only one user, could mean less truck traffic, per day, generated off the site during Phase II of operations. Soil erosion and blowing dust are possible. However, the limited scale of the proposed excavation (4-acres) and the proposed conditions of approval mitigate most of the anticipated negative effects on nearby property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: During Phase I of operations, the extracted soil will be used for the bridge work over the Big Ditch at Hydraulic Avenue and 71st Street South; KDOT project 87C4343-01. This is a benefit to the general public. Denial would cause the applicant to look for another site, but may preserve the current mix of agricultural, urban and suburban residential and institutional character of the area.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The site is on the east edge of rural west Sedgwick County. The 2030 Wichita Functional Land Use Guide shows this area located inside of Wichita's 2030 Urban Growth Area and categorized as "Urban Development Mix." This category encompasses land that is likely to be developed by the year 2030. Uses within this category include all types of residential, institutional, commercial, parks, and employment/industrial uses; this category is market driven, with a broad range of development possibilities. Soil and sand extraction is a use dependent on a natural resource; there are several older, finished sand pits in the area. The Wichita/Sedgwick County Comprehensive Plan's Locational Criteria indicates that industrial uses should be located with good access to major arterials, truck routes, belt highways, utility truck lines, rail spurs, and airports. The site has access to 55th Street South, an arterial. It is advisable not to locate a sand pit close to an airport, because of the number of birds they can attract. An industrial use should not feed directly into local streets in residential areas. This site does not access a local street, but it will use a shared private drive that the owner and a neighbor use; Staff has not received calls from that neighbor. An industrial use should be located away from existing or planned residential areas and sited so as not to generate industrial traffic through less intensive land uses areas. The area has a mix of institutional, agricultural, urban and suburban single-family residential development; development that reflects the Urban Development Mix category. Truck traffic will go through a suburban - urban - rural landscape.
6. Impact of the proposed development on community facilities: The primary impact of the proposed use is an increase in truck traffic, onto 55th Street South. An increase in truck traffic by up to 20 trips a day, to and from the site, during Phase I of operations (soil extraction) is almost certain from mid October to mid December. The relative small size to be excavated, 4-acres, coupled with the requested 4 years to do it and having only one user, could mean less truck traffic generated off the site during Phase II of operations.

BILL LONGNECKER, Planning Staff presented the staff report.

FOSTER asked about the layout for moving the sand pit 120 feet. Where was the site plan?

LONGNECKER said the applicant will provide a revised site plan based on direction from the MAPC.

MITCHELL thanked **MR. LONGNECKER** and other City staff for working out an agreement that he felt was needed. He added that this approach may be used again in the future.

CHAIRMAN VAN FLEET referred Commissioners to a hand out relating to this item which addressed the Airport's concerns as well.

MOTION: To approve subject to staff recommendation, including the additional conditions presented today. .

MITCHELL moved, **HILLMAN** seconded the motion, and it carried (12-0).

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4. **Case No.: CUP2009-22** (Deferred from August 6, 2009) - Hoover Road, LLC/Clark Investment Group c/o Johnny Stevens (owner), Ruggles & Bohm c/o Chris Bohm (agent) request Amendment #1 to DP-82 Cross Town East Commercial CUP for an offsite digital billboard sign in Parcel 3.

The North 213.5 feet of the East 190 feet of Lot 2, Cross Town East Addition to Wichita, Sedgwick County, Kansas, generally located south of Kellogg Avenue and east of Webb Road.

BACKGROUND: The applicant proposes to remove the prohibition on off-site billboards on DP-82 Cross Town East Community Unit Plan ("CUP") with respect to Parcel 3. The parcel is located on the southwest corner of Kellogg Street and Wildcat Lane, approximately one block east of Webb Road. The property is zoned GC General Commercial ("GC"). An off-site sign is a sign that delivers a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon. Billboards are off-site signs. The applicant is proposing a digital L.E.D. billboard with a maximum area of 672 square feet per side and a maximum height of 40 feet.

This CUP always has prohibited offsite signs. Also, the Unified Zoning Code ("UZC") prohibited off-site signs and billboards within a community unit plan until an amendment to the Code last year. This code amendment allowed consideration of amending CUPs on a case-by-case basis, upon request of the property owner to determine if a proposed lifting of the prohibition in a particular case is warranted.

The proposed site plan places a full-size billboard (up to 14 feet x 48 feet or 672 square feet) at the northwest edge of Parcel 3. This falls squarely within the future right-of-way of the Kellogg freeway project. The freeway project is currently under design with funding for right-of-way purchase allocated in Wichita's current CIP for the years 2101, 2011 and 2012. Construction funding is allocated for 2014 and 2015.

Two other billboards are located in this mile segment. A full size billboard is located 750 feet east of the proposed location on Parcel 3. A junior billboard of 14 feet x 24 feet, is located an additional 520 feet to the east. When the junior billboard was installed in 2007 (SGN2006-00974, approved March 7, 2007), the sign company placed it behind the anticipated Kellogg freeway right-of-way rather than at the current property line as requested by this application. Several other right-of-way adjustments already have been made in anticipation of making this segment of Kellogg a freeway. These include a right-of-way purchase on the farm supply store, and right-of-way dedications on DP-36, DP-88 and the car wash at the corner of Kellogg and Greenwich Road.

The proposed sign was requested for a maximum height of 40 feet and its location is within Airport Hazard Area A and is located approximately 520 feet to the southwest of the end of the asphalt runway on the Beech property. FAA approval is required for any structure above 25 feet, corresponding to the

height limit of 25 feet established on the CUP for Parcel 3. Information on the more detailed airport hazard maps show this parcel to be within the runway approach where the interpolated permitted heights are below requested heights. Without knowing the actual elevation of the pad site, it is difficult to determine if the 25-foot height also encroaches within the conical area shown on the hazard map. Given the proposed proximity to the Hawker Beechcraft runway, a lighted sign may be of concern to flight operations.

The other two billboards in this segment of Kellogg are 30 feet in height, which is the maximum allowable height of billboards unless abutting an elevated freeway (current freeway plans show Kellogg depressed at this location). The freeway is depressed because an elevated freeway would encroach into the runway approach path. Forty feet of height, as requested by the applicant, would be interpreted as seeking the increased height for the sign by CUP amendment in place of the requirements for signs outside a CUP that would have required a BZA sign variance.

DP-82 was approved in 1977 with a Parcel 1 (0.75 acres) at the corner of the intersection, currently a liquor store, and Parcel 2 (9.247 acres) with "Proposed uses: of shopping center and or offices, professional personal services, comparison and convenience shopping." (DP-82 Parcel No. 2, approved July 5, 1977) A strip center with TG&Y as the major tenant was built in 1977. This was replaced in 1992 by Builder's Square, but this business has been closed since about 1998. An administrative adjustment in 1991 created Parcel 3 (0.93 acres) from Parcel 2, reflected as a lot split recorded in 1994. Parcel 3 was designed to allow a typical small freestanding use. Proposed uses were: restaurant (includes fast food) retail shops, banks and financial institutions, offices medical and dental offices or clinics, tire, battery and accessory stores, pharmacies, small animal clinics, day care centers, and fitness centers, limited to one building on the parcel, small freestanding retail, etc.). Parcel 3 was limited to one building. The original 300-foot setback from Kellogg Street, which remains for the balance of Parcel 2, was reduced to the CUP minimum allowed setback of 35 feet for Parcel 3 only. Parcel 3, created in 1991, remains undeveloped.

The surrounding area consists of the Hawker Beechcraft manufacturing and runway facilities, located on property zoned LI Limited Industrial ("LI"). The property to the east and south consist of sites zoned GC and used for vehicle sales, vehicle repair and equipment rental, plus the large tract occupied by the vacant home improvement center building. The property to the west is zoned GC and is a liquor store and parking area for the vacant home improvement center. West of Webb Road, the property is zoned LI and currently has a restaurant and a retail use.

CASE HISTORY: The property is platted as Cross Town East Addition, recorded October 27, 1977. A lot split of the area within Parcel 3 was recorded November 23, 1994 (Film 1490, Page 1686). DP-82 Cross Town East CUP was approved July 5, 1977. This is the first amendment to the CUP. The administrative adjustment granted December 19, 1991, added Parcel 3, increased the number of buildings allowed on the CUP to permit one building on the new parcel, reduced the setback to 35 feet along Kellogg Street, and reduced building height for Parcel 3 to 25 feet. It did not increase the maximum floor area or maximum building coverage.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Hawker Beechcraft manufacturing and runway facilities
SOUTH:	GC	Vacant commercial building, equipment rental, vehicle repair
EAST:	GC	Vehicle sales and repair
WEST:	GC, LI	Liquor store, restaurant, retail

PUBLIC SERVICES: Parcel 3 has direct access to Wildcat Lane on its eastern boundary and with cross-lot access across the CUP to Webb Road. No direct access was permitted to Kellogg Street. The CUP had access limitations of one access point onto Webb Road, two onto Orme Street (the southern boundary of the CUP) and three onto Wildcat Lane.

Kellogg is the major cross-town expressway. It is in design for construction to freeway standards. An interchange would be located at Webb.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “regional commercial.” This includes major destination areas with a range of uses including major retail malls, major automobile dealership and big box retail outlets with a regional market draw. The original use on Parcel 2 was in conformance with this designation, as are the major car dealerships located in the mid-mile segment between Webb Road and Greenwich Road. The Unified Zoning Code regulations had been to prohibit billboards in CUPs until last year and the amended regulations contemplate that the prohibition can be removed only by CUP amendment, to allow a public hearing and discussion of the appropriateness of a particular site for a billboard. The requested location of the billboard is within the area for future right-of-way, as depicted on preliminary plans for Kellogg available to the public, and with the City of Wichita’s adopted 2007-2016 Capital Improvement Program Workbook for improvement of east Kellogg from Webb to Greenwich to freeway standards. It is designated as the major freeway project during this timeframe. Kellogg has been improved to freeway standards up to the KTA interchange, and contracts were given in 2008 for design of the KTA/Webb Road/Kellogg interchange and the Greenwich/Kellogg interchange.

RECOMMENDATION: The CUP has always had a restriction to onsite signs. To approve this amendment is to remove a restriction in place. The ramifications are potentially detrimental, resulting in hiking the costs of construction for no benefit to the public. In contrast, like other uses located along the Kellogg frontage from Webb Road to Greenwich Road, this CUP stands to benefit financially from the freeway construction. Many other locations along this mile segment have facilitated the Kellogg freeway construction in anticipation of these future gains by dedication of right-of-way. The same applicant owns all of Parcel 2 and Parcel 3, and could have chosen a different placement that would have afforded the good advertising visibility without creating this public hardship, as was done by the most recent billboard erected in the vicinity in 2006. The requested height appears in conflict with airport hazard zone restrictions. Based on these factors, plus the information available prior to the public hearing, staff recommends the request for Amendment #1 to DP-82 be **DENIED.**

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** DP-82 was approved in 1977 with a Parcel 1 (0.75 acres) at the corner of the intersection, currently a liquor store, and Parcel 2 (9.247 acres) with “Proposed uses: of shopping center and or offices, professional personal services, comparison and convenience shopping.” (DP-82 Parcel No. 2, approved July 5, 1977) A strip center with TG&Y as the major tenant was built in 1977. This was replaced in 1992 by Builder’s Square, but this business has been closed since about 1998. An administrative adjustment in 1991 created Parcel 3 (0.93 acres) from Parcel 2, reflected as a lot split recorded in 1994. Parcel 3 was designed to allow a typical small freestanding use. Proposed uses were: restaurant (includes fast food) retail shops, banks and financial institutions, offices medical and dental offices or clinics, tire, battery and accessory stores, pharmacies, small animal clinics, day care centers, and fitness centers, limited to one building on the parcel, small freestanding retail, etc.). Parcel 3 was limited to one building. The original 300-foot setback from Kellogg Street, which remains for the balance of Parcel 2, was reduced to the CUP minimum allowed setback of 35 feet for Parcel 3 only. Parcel 3, created in 1991, remains undeveloped. The surrounding area consists of the Hawker Beechcraft manufacturing and runway facilities, located on property zoned LI Limited Industrial (“LI”). The property to the east and south consist of sites zoned GC and used for vehicle sales, vehicle repair and equipment rental, plus the large tract occupied by the vacant home improvement center building. The property to the west is zoned GC and is a liquor store and parking area for the vacant home improvement center. West of Webb Road, the property is zoned LI and currently has a restaurant and a retail use.

2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable as currently zoned and allowed by the community unit plan. A wide range of uses that provide potential economic value are currently allowed by the CUP. The requested changes conflicts with the Kellogg freeway and may conflict with the runway height limitations. A lighted sign might also conflict with air operations.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The number of billboards allowed in a mile segment are limited by the length of frontage zoned LC or more intensive and where billboards are not prohibited but to a maximum number per segment. Minimum spacing is 300 feet apart. The location of any billboard, but the nature of the Wichita Sign Code requirements, could preempt other billboard sites in more appropriate locations.
4. Length of time the subject property has remained vacant as zoned: The lot encompassing Parcel 2 and Parcel 3 was developed with first with a variety store, then with a home improvement center, but this use has been vacant since 1997. Parcel 3 never has been paved even as parking for the earlier use.
5. Relative gain to the public health, safety, and welfare as compared to the loss in value or the hardship placed on the applicant: The relative loss is one-sided, only born by the public in terms of potential increase in costs to acquire right-of-way after a billboard is placed on the property to increase intensification of the use of the property in a manner not allowed today. The applicant faces no loss in value from denial of this request, as the development rights of the parcel would not be altered by denial from today's conditions. Furthermore the applicant could have sought a location that respected future right-of-way needs and did not create financial hardship on the community.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "regional commercial." This includes major destination areas with a range of uses including major retail malls, major automobile dealership and big box retail outlets with a regional market draw. The original use on Parcel 2 was in conformance with this designation, as are the major car dealerships located in the mid-mile segment between Webb Road and Greenwich Road. The Unified Zoning Code regulations had been to prohibit billboards in CUPs until last year and the amended regulations contemplate that the prohibition can be removed only by CUP amendment, to allow a public hearing and discussion of the appropriateness of a particular site for a billboard. The requested location of the billboard is within the area for future right-of-way, as depicted on preliminary plans for Kellogg available to the public, and with the City of Wichita's adopted 2007-2016 Capital Improvement Program Workbook for improvement of east Kellogg from Webb to Greenwich to freeway standards. It is designated as the major freeway project during this timeframe. Kellogg has been improved to freeway standards up to the KTA interchange, and contracts were given in 2008 for design of the KTA/Webb Road/Kellogg interchange and the Greenwich/Kellogg interchange.
7. Impact of the proposed development on community facilities: The requested amendment will result in a detrimental impact on community facilities and would be a change from impacts allowed today by development of the parcel by current CUP allowable provisions.

CHAIRMAN VAN FLEET reported that the applicant had requested a deferral of this item until the October 22, 2009 MAPC Hearing.

MOTION: To defer the item until October 22, 2009.

DOWNING moved, **MITCHELL** seconded the motion, and it carried (12-0).

5. **Case No.: ZON2009-28** - Lonnie Bosley (applicant); Poe and Associates, c/o Tim Austin (agent) request City zone change from SF-5 Single-family Residential to GC General Commercial for auto service on property described as:

The East 190 feet of a tract beginning 180 feet East of the Southwest corner in the Southwest Quarter; thence East 605.11 feet; thence North 411 feet; thence West 383.37 feet; thence South 133.2 feet; thence West 220 feet; thence South 278 feet to beginning, Except the South 65 feet for road, Section 9, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, generally located north of MacArthur Road and east of Broadway Street (320 E. MacArthur Road).

BACKGROUND: The applicant requests GC General Commercial (“GC”) zoning on a 1.5-acre vacant site, currently zoned SF-5 Single-family Residential (“SF-5”). The remainder of the applicant’s property, west of the site and fronting on Broadway, is all zoned GC. The applicant wishes to expand GC zoning onto his entire site. The applicant has an auto service facility west of the application area.

North of the site is vacant SF-5 zoned property, part of a parcel with GC zoning fronting Broadway. Further north is a nursery with SF-5 zoning, and GC zoning fronting Broadway. South of the site, across MacArthur is a GC zoned vehicle sales lot and salvage yard. East of the site is an SF-5 zoned residence; further east is a GC zoned self-storage warehouse. West of the site is the applicant’s remaining GC zoned property.

CASE HISTORY: The site is vacant and unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Vacant, nursery
SOUTH:	GC	Vehicle sales, salvage yard
EAST:	SF-5, GC	Single-family residential, self-storage
WEST:	GC	Vacant, auto service

PUBLIC SERVICES: MacArthur is a four-lane arterial street with central turn lanes and a 55-foot half-width right-of-way. MacArthur has a traffic count of 11,420 vehicles per day at this location. The 2030 Transportation Plan designates this portion of MacArthur to remain a five-lane arterial. All other normal public services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area and the SF-5 zoned residence east of the site as “Regional Commercial.” The Regional Commercial category includes major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. The commercial location guidelines of the Comprehensive Plan state that commercial uses should be located near arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. And, that commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses.

If zoning on the property is changed, The Unified Zoning Code (UZC) would require that commercial development have compatibility setbacks and screening from the abutting SF-5 zoning. Also, the

Landscape Code would require a landscape plan on this site if developed for a commercial use.

RECOMMENDATION: A change to GC zoning on this site would allow outdoor storage, and intense commercial use; existing codes will require compatibility setbacks, screening, and landscaping to mitigate potential effects of commercial use on the residence to the east. A zone change on this site would “sandwich” the residential property to the east with non-residential zoning. The Comprehensive Plan, development patterns, and interstate highway access would indicate that this residence will eventually convert to commercial zoning and development.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is vacant SF-5 zoned property, part of a parcel with GC zoning fronting Broadway. Further north is a nursery with SF-5 zoning, and GC zoning fronting Broadway. South of the site, across MacArthur is a GC zoned vehicle sales lot and salvage yard. East of the site is an SF-5 zoned residence; further east is a GC zoned self-storage warehouse. West of the site is the applicant’s remaining GC zoned property.
2. The suitability of the subject property for the uses to which it has been restricted: This site would not be attractive for single-family residential development under the current zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning and commercial development could negatively affect the residence east of the site with noise, light, and increased commercial activity. Code required light, noise, setback, screening, and landscaping should mitigate those effects.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area and the SF-5 zoned residence east of the site as “Regional Commercial.”
5. Impact of the proposed development on community facilities: The proposed zone change and office development would have a marginally greater impact on community facilities than uses permitted under the current SF-5 zoning.

TIM AUSTIN, POE AND ASSOCIATES, AGENT FOR THE APPLICANT reported that they are in agreement with staff comments. He said previously a manufactured home sales office was located at the site and that it has a history of commercial use. He said the applicant intends to build a building for items that are currently stored outdoors.

LOWELL BROWN, 518 E. MACARTHUR said he realizes that commercial development is the destiny for this area. He said he was concerned about the material for the fence which was old second hand material, rusty pipes and two by fours. He referred to several pictures he had taken of the facility and said that is what he has to look at every day. He also asked about the junk and tires stored behind the facility. He said if they pile up two to three hundred tires, it could become a health problem, especially come spring and the mosquito breeding season. He also mentioned that the ground behind the facility that is unused is not kept up and that there are 5-6 foot tall weeds. He said the area has only been mowed once since June. He concluded by saying that he doesn’t believe in storing junk out where it is visible and added that it probably doesn’t meet zoning requirements anyway.

HENTZEN asked **MR. BROWN** if he wanted his property rezoned.

BROWN replied “no” they want to keep their property as it is zoned.

TIM AUSTIN said he did not see the tires stored on the ground and commented that was temporary. He said part of the reason for initiating zoning was the client received notice from code enforcement regarding storage. He said the client has pulled a building permit and is going to build a building for that purpose. He also stated that the client would provide screening that was up to City Code. He commented that **MR. BOSLEY** was present to answer any questions.

MITCHELL asked what kind of screening they were proposing that would satisfy both the City Code and the adjacent property owner.

AUSTIN said the screening provided would meet requirements set by the Office of Central Inspection (OCI); however, they do not have a specific solution yet.

HILLMAN asked if it was currently legal to store scrap tires with water in them in the open.

MILLER commented that he was fairly certain the Health Department had standards for tire storage. He added that if someone filed a complaint, code enforcement would take action on the item.

FOSTER requested that staff describe the type of screening that was required by the Unified Zoning Code (UZC), for the benefit of the neighbor.

MCNEELY explained that the UZC requires 6-8 foot solid screening that cannot be corrugated metal that it needs to be a wood fence or masonry wall.

JESS MCNEELY, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **DOWNING** seconded the motion, and it carried (12-0).

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6. **Case No.: CUP2009-25** - Maize 54, LLC (applicants/owners), Poe & Associates c/o Tim Austin (agent) request City CUP Amendment #1 to DP-318, the Maize 54 Commercial CUP, to reduce the parking requirement by 25%, and to increase sign size and height standards, re-allocating authorized signage on property described as:

That part of the SW1/4 Section 29, Township 27 South, Range 1 West, of the 6th P.M. Sedgwick County, Kansas, described as beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita, Sedgwick County, Kansas, being a common corner of the S.E. corner of Lot 8, Verda Vista, Sedgwick County, Kansas; thence N88 degrees 20' 30" E along the common line as extended east, 805.46 feet; thence S14 degrees 10' 35" E 401.95 feet to a point 40 feet north of the north line of U.S. 54 Highway as deeded on Film 2144, Page 1847; thence N74 degrees 04' 48" E parallel with and 40 feet north of said U.S. 54 Highway, 258.59 feet to a point on the west line of Miles Lakewood Village Second Addition, Wichita, Sedgwick County, Kansas; thence S01degrees 28' 11" E along the west line of said Miles Lakewood Village Second Addition and Davis Moore 12th Addition, Wichita, Sedgwick County, Kansas, 41.31 feet to a point on the north line of said U.S. 54 Highway; thence S74 degrees 04' 48" W along said U.S. 54 Highway, 419.31 feet; thence S15degrees 55' 12" E 125 feet; thence S71degrees 17' 23" W 324.5 feet; thence S76 degrees 05' 36" W, 210.7 feet; thence S83 degrees 50' 05" W 19.89 feet to the S.E. corner Lot 1, Block A, Quiktrip 10th Addition, Wichita, Sedgwick County, Kansas; thence N01 degrees 19' 41" W, 236.41 feet to the N.E. corner of said Quiktrip 10th Addition; thence S88 degrees 12' 33" W along the north line of said Quiktrip 10th and the north line of Lot 1, Block A, Quiktrip 8th

Addition, Wichita, Sedgwick County, Kansas, 236 feet to a bend point in the east line of said Quiktrip 8th Addition; thence N01degrees 18 ' 15" W along the east line of said Quiktrip 8th Addition and Kansas State Bank Addition, 500 feet to the point of beginning. Generally located north of Kellogg Street and east of Maize Road.

BACKGROUND: On April 21, 2009, the City Council approved this site for a zone change from SF-5 Single-family Residential to LC Limited Commercial ("LC") and the Maize 54 Commercial Community Unit Plan, subject to platting within one year. The approved CUP specified that parking and sign standards would be based on Zoning Code and Sign Code standards for LC zoning.

The applicant has refined his site plans for an entertainment center on the site and now requests a CUP amendment to reduce the parking requirement by 25% of the Zoning Code standards. The Zoning Code would require 499 parking spaces for the proposed entertainment facility. The applicant states that a 25% reduction, 374 spaces, will meet the facility parking needs. The applicant also states that a shared parking plan will help the site meet parking needs. Please see the attached letter from the agent for the applicant, and the attached letter from the applicant's architect.

The applicant has also refined a sign plan for the site. The applicant now requests a 450 square foot primary sign for Parcel 1 (including a 300 square foot LED sign) at the primary Kellogg Drive entrance. This size would exceed the Sign Code limitation of 300 square feet for a single sign in LC zoning. The applicant requests a 65 foot height, 25 feet taller than what would be approved by right along this elevated portion of Kellogg. The proposed LED sign is 3.5 feet thick, the sign code counts any sign exceeding 3 feet in thickness as two signs; the applicant requests a waiver of this requirement. The majority of this sign structure is masonry, and will be the monument base, not counted toward sign size. Please see the attached applicant's sign elevation drawing. The applicant proposes that the two outparcels (Parcels 2 and 3) be allowed one 125 square foot monument sign each, for a total of 700 square feet of sign space on the Kellogg frontage. The Sign Code limits monument signs in LC zoning along an expressway to 20 feet in height. The CUP Kellogg frontage is 919 linear feet. The total requested signage is below the Sign Code maximum of .8 square feet of sign space per linear foot of frontage by 35 square feet.

North of the subject property is undeveloped SF-5 zoned land, some of it owned by the applicant, with most of it identified as being in the FEMA (Cowskin) floodway and flood zone. Northwest of the site are SF-5 zoned single-family residences facing Maize Road. West of the site is an LC zoned bank and an undeveloped lot. South of the property is an LC zoned convenience store and its enclosed automated car wash. East of the site and across the Cowskin is an SF-5 zoned subdivision.

CASE HISTORY: On April 21, 2009, the City Council approved this site for a zone change to LC and the Maize 54 Commercial Community Unit Plan, subject to platting within one year. In 2004 Public Works acquired a perpetual stream easement along the Cowskin Creek on the eastern portion of the subject property.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Undeveloped property
SOUTH:	LC, SF-5	Convenience store & enclosed automated car wash, City owned property associated with Kellogg Street/US 54 & Cowskin Creek drainage
EAST:	SF-5	Cowskin Creek, undeveloped property, single-family residential
WEST:	LC	Undeveloped lot, bank

PUBLIC SERVICES: Kellogg/US 54 is an east-west urban freeway. The Kellogg one-way west frontage road runs in front of the subject property with two thru lanes and two turn lanes. Current traffic counts are between 28,900 – 45,800 ADT's. All other normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" map depicts the interior portion of the site (Parcel 1 of the CUP) as appropriate for "urban residential" uses. It

depicts the portion (Parcels 2 and 3) along the Kellogg frontage road as appropriate for “regional commercial”. This classification encompasses major destination areas containing concentrations of commercial, office, and personal service uses that have a predominately regional draw and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships, and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas. A CUP is intended to protect the public safety, convenience, health and general welfare through standards and provisions to include signage and parking standards.

RECOMMENDATION: The proposed CUP amendment to reduce parking requirements is based on the applicant’s analysis for parking requirements, to include the use of shared parking. The requested 25% reduction is consistent with administrative parking reductions for redevelopment projects. The proposed signage exceeds code requirements for size and height on Parcel 1, but is overall fewer sign square feet than what is permitted by right under LC zoning. CUPs regularly re-allocate signage for a single, larger anchor sign. The requested sign plan is not out of character with similar CUP sign plans in the Wichita area. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the following conditions:

APPROVE DP- 318 Amendment #1 for a parking reduction and a sign plan subject to the following conditions:

1. Add to General Provision #7: “A shared parking agreement between Parcels 1, 2, and 3 shall be filed with the Office of Central Inspections.”
2. Change General Provision #4.I. to state “Parcel 1 shall be allowed one 450 square foot monument sign at the Kellogg entrance. This sign shall be permitted at 65 feet tall and up to 5 feet thick. The sign shall generally conform to the approved sign elevation for DP-318 Amendment #1. Parcels 2 and 3 shall be allowed 125 square feet of signage each and shall be monument style signs.”
3. The applicant shall submit 4 revised copies of the amended C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the subject property is undeveloped SF-5 zoned land, some of it owned by the applicant, with most of it identified as being in the FEMA (Cowskin) floodway and flood zone. Northwest of the site are SF-5 zoned single-family residences facing Maize Road. West of the site is an LC zoned bank and an undeveloped lot. South of the property is an LC zoned convenience store and it’s enclosed automated car wash. East of the site and across the Cowskin is an SF-5 zoned subdivision.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property could be used under the existing CUP without the requested amendment for a parking reduction and signage allocation.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested CUP parking reduction will provide adequate parking according the applicant’s analysis and should not result in a parking spill over onto surrounding properties. The requested CUP sign plan will result in one sign larger than allowed by code, but with less signed overall than the amount allowed by code. Trees on the east side of the site should adequately screen the CUP anchor sign from the subdivision to the east.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide” map depicts the interior portion of the site (Parcel 1 of the CUP) as appropriate for “urban residential” uses. It depicts the portion (Parcels 2 and 3) along the Kellogg frontage road as appropriate for “regional commercial”.
5. Impact of the proposed development on community facilities: The proposed amendment to parking and sign standards should have no impact on community facilities.

FOSTER commented that he thought the sign was pretty big and said this request was deviating quite a bit from sign code standards. He mentioned the mass being as big as a house. He asked if staff had an analysis of some of the other signs along Kellogg.

MCNEELY commented that the height was out of the norm and that 65 feet was pretty tall. He said staff identified five other signs along Kellogg that required action of the Board of Zoning Appeals (BZA) or were part of a Community Unit Plan (CUP) or Planned Unit Development (PUD) that were 50 or more feet high. He said this site is located next to an elevated portion of Kellogg, and some of the others sites were not; however, he did mention that one sign located within a Planned Unit Development (PUD) was 80 feet tall. He added that because the site was adjacent to an elevated portion of Kellogg, they are allowed an extra 20 feet “by right.” He said mass is not something the sign code takes into consideration and that he did not have a way to address that concern. He said this is sign 450 square feet; however, some CUP’s and entertainment complexes have signs that are 700 square feet. He said this sign is still not as tall as other signs along Kellogg.

MILLER STEVENS clarified the location of the sign and asked if it was taller than the QuikTrip sign adjacent to this area. She said she wondered if this was approved, if other businesses would then want larger signs.

MCNEELY clarified that the sign will be located at the primary entrance into the site along Kellogg on the access drive between parcels 2 and 3. He mentioned that QuikTrip received an adjustment for a 45 foot sign and that this sign will be 20 feet taller.

MILLER STEVENS asked the location of the QuikTrip sign.

MCNEELY said the QuikTrip sign is adjacent to Kellogg as well.

DENNIS asked staff to address how the taller sign with LED would impact the houses located to the east and west of the site.

MCNEELY explained that the sign was located between 1,200-1,500 feet from residences on the east. In addition, he said there was quite a bit of vegetation along the Cowskin Creek which they believe will provide a pretty good buffer. He said the residences to the west already have a significantly tall sign closer to them.

DENNIS said but not an LED sign.

MCNEELY acknowledged that was correct, and pointed out that the sign code regulates brightness of LED signs and that they have standards that are measurable. He said OCI monitors and enforces brightness of LED signs.

HILLMAN said he assumed the LED signs were dialed down at night.

MCNEELY responded that OCI manages LED signs and the sign code and that people can file a complaint with OCI if they feel the sign is too bright.

FOSTER commented that he recalled from the previous discussion on this site and that the neighbors indicated they had planted evergreen trees. He said he was concerned that with the deciduous vegetation, they will still be able to see the sign six to seven months out of the year, although the evergreens will help provide screening.

TIM AUSTIN, POE AND ASSOCIATES, AGENT FOR THE APPLICANT said they are in agreement with staff comments. He said the deciduous trees are really thick in the area in addition to the 12-13 foot berm west of the houses. He said they will abide by the rest of the provisions of the sign code and don't think they are going to cause any problems.

FOSTER asked about the waterfall on the lower portion of the sign and related his experience with water features. He also asked about the thickness of the LED sign.

AUSTIN mentioned the water feature at the base of the wall with accent lighting. He mentioned the name of the facility which was "Bowllagio" which was a parody of the Bellagio resort in Las Vegas that also features water. He said the 5 foot thickness for the LED sign was to provide access for maintenance behind the boards and that they will have back-to-back LED signs. He said they do not plan on putting any signage on the south face of the sign. He said Spangenberg Phillips were the architects for the site.

HENTZEN said then this is going to be a bowling alley

AUSTIN said it will be a recreational facility with bowling as its main component.

JESS MCNEELY, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation.

MARNELL moved, **HENTZEN** seconded the motion, and it carried (11-1).

FOSTER – No.

FOSTER requested that staff research standards for size of monuments.

DIRECTOR SCHLEGEL asked what kind of research.

FOSTER said if signage was part of or independent from the monuments themselves. He also asked what an appropriate size is for this community.

DIRECTOR SCHLEGEL asked by what standards, by those adopted by landscape architects?

FOSTER said he would like to compare recently built signs relative to what is already built right now. He said this request seems way out of whack.

DIRECTOR SCHLEGEL suggested that they meet after the meeting so staff can get a clear picture of what **MR. FOSTER** is requesting.

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7. **Case No.: CON2009-22** - New Circular Wireless (applicant), Local Lodge 839 IAM & AW (owner), Telecom Realty Consultants, LLC, Paul Wrablica (agent) request County Conditional Use for a wireless communication tower on property described as:

Beginning 107 feet West of the Northeast corner of the Northwest Quarter; thence West 200 feet; thence South 416 feet; thence East 200 feet; thence North to beginning except the North 66 feet

for road, Section 14, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, generally located east of Highway K-15, on the south side of MacArthur Road.

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 150-foot high, galvanized monopole tower. The Sedgwick County subject tract is zoned LI Limited Industrial (“LI”) and is located east of Highway K-15, on the south side of MacArthur Road. Wireless Communication Facilities up to 150 feet in height may be permitted with an Administrative Permit in the LI zoning district, if they conform to the Location/Design Guidelines in the “Wireless Communication Master Plan” and if the zoning lot located within the City is designated on the “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map.” The site is not located on the Facility Map, thus the application for a Conditional Use.

The applicant/agent has indicated that the proposed facility will replace a temporary 80-foot tall, cellular on wheels (COW), located southeast of the Oliver Avenue and MacArthur Road intersection. This temporary COW was permitted as an Administrative Permit, CON2009-00002, to provide AT & T wireless phone coverage for the Boeing/Spirit aircraft manufacturing complex, until a permanent wireless facility was approved and constructed. The COW permit was good for one-year, ending February 13, 2010. If approved, this proposed Conditional Use is the permanent wireless facility that will replace the COW. The intent of the proposed tower is to provide better in building coverage within the Boeing/Spirit aircraft manufacturing complex.

The applicant/agent’s existing facilities map shows four existing towers in the one-mile analysis area that emerged as possible sites. The applicant/agent has stated that: the first occupant of the proposed tower, AT & T, already occupies the tower located northwest of the site, off K-15 and the I-35, thus no improvement in coverage; the Spirit tower located northeast of the site does not have the capacity for more equipment; the Spirit tower located straight north does not provide the needed coverage, and; the Verizon tower site located northeast of the site is contaminated, and is located too far away to provide the needed coverage.

The proposed tower will be located in the southwest portion of the 1.6-acre tract. Local Lodge 839 IAM & AW has a business building on the tract, which they own. The 40-foot (x) 40-foot tower site is surrounded by a 6-foot tall chain link fence topped by barbed wire. As the number of carriers increase on the tower, the site will grow to accommodate those carriers’ equipment, which will require adjustments to the site plan. The proposed tower will allow co-location for a total of four wireless providers, which exceeds the co-location requirements of the Wireless Communication Master Plan, Sec.VI-C. A proposed 20-foot wide access easement goes from the site to MacArthur Road. Because the site is located within an extensive area of LI zoned land: the Unified Zoning Code’s (UZC) compatibility height standard, Art. IV Sec. IV-C.5.b is not applicable to this site, and; the UZC’s screening requirement, Art. IV, Sec. IV-B.3.b.1., is not applicable to this site. The applicant has provided a letter from the Federal Aviation Administration (FAA) stating that the proposed tower poses no hazard to air navigation or to communication frequencies and wattages. No lighting will be on the tower or required to be on the tower. The proposed galvanized monopole tower is one of the least obtrusive tower designs, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.”

The area around the site is part of the LI zoned Boeing/Spirit aircraft manufacturing complex and, further east, the abutting AFB Air Force Base (“AFB”) zoned McConnell Air Force base. Vacant LI zoned land is located west and south of the site. Parts of the LI zoned aircraft manufacturing complex facilities are located north of the site, across MacArthur Road. There is a LI zoned electrical substation (major utility) located on the east side of the site. The nearest residences, zoned SF-20 Single-family Residential (“SF-20”), are located approximately ½-mile west of the site.

CASE HISTORY: The Sedgwick County site is part of the unplatted, LI zoned, 1.6-acre, Local Lodge 839 IAM & AW land and business building.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Aircraft manufacturing complex
SOUTH:	LI	Vacant, aircraft manufacturing complex
EAST:	LI	Electrical substation, aircraft manufacturing complex
WEST:	LI	Vacant, aircraft manufacturing complex

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access to MacArthur Road, a four-lane principal arterial with turn lanes. There are approximately 8,500 trips per day on this section of MacArthur. The 2030 Transportation Plan shows no change to the current status of MacArthur.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing and 9) painting towers red and white instead of using strobe lighting. Since the time the Wireless Communication Master Plan was adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using the proposed lighting.

The area around the site is part of the LI zoned Boeing/Spirit aircraft manufacturing complex and, further east, the abutting AFB Air Force Base (“AFB”) zoned McConnell Air Force base; the proposed tower does not disrupt the character of the area. There are no co-location opportunities in the area, as the existing towers in the area do not have the capacity for more equipment or the proposed occupant of the tower, AT & T, already occupies space on those towers in the area. The 150-foot high, galvanized monopole tower is one of the least obtrusive tower designs, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.

RECOMMENDATION: Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The tower shall be a galvanized monopole design that generally conforms to the approved site elevation. The galvanized monopole tower shall be 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- D. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- E. The 40-foot (x) 40-foot site shall be developed in general conformance with the approved site plan. Adjustments to the site plan to allow additional communication equipment must be submitted to the Planning Department for Administrative Adjustments and subsequent filing in the CON2009-22 case file. All improvements shall be completed before the facility becomes operational.
- F. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.

- G. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area around the site is part of the LI zoned Boeing/Spirit aircraft manufacturing complex and, further east, the abutting AFB Air Force Base ("AFB") zoned McConnell Air Force base. Vacant LI zoned land is located west and south of the site. Parts of the LI zoned aircraft manufacturing complex facilities are located north of the site, across MacArthur Road. There is a LI zoned electrical substation (major utility) located on the east side of the site. The nearest residences, zoned SF-20 Single-family Residential ("SF-20"), are located approximately ½-mile west of the site. The intent of the proposed tower is to provide better in building coverage within the Boeing/Spirit aircraft manufacturing complex.
2. The suitability of the subject property for the uses to which it has been restricted: The site is part of the unplatted, LI zoned, 1.6-acre, Local Lodge 839 IAM & AW land and business building. The site is suitable for development allowed in the LI zoning district. A Conditional Use may be granted to permit a wireless communication facility in the LI zoning district; however, the facility should conform to the guidelines of the Wireless Communication Plan as much as possible. The proposed facility conforms to the plan's guidelines.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Negative impact on the surrounding LI zoned Boeing/Spirit aircraft manufacturing complex lands will be minimal. The intent of the proposed tower is to provide better in building coverage within the Boeing/Spirit aircraft manufacturing complex.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The area around the site is part of the LI zoned Boeing/Spirit aircraft manufacturing complex and, further east, the abutting AFB Air Force Base ("AFB") zoned McConnell Air Force base; the proposed tower does not disrupt the character of the area. There are no co-location opportunities in the area, as the existing towers in the area do not have the capacity for more equipment or the proposed occupant of the tower, AT & T, already occupies space on those towers in the area. The 150-foot high, galvanized monopole tower is one of the least obtrusive tower designs. The proposed tower meets the intent of the Wireless Communication Master Plan.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower poses no hazard to air navigation or to communication frequencies and wattages in the area.

BILL LONGNECKER, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **FARNEY** seconded the motion, and it carried (12-0).

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8. **Case No.: CON2009-23** - Faith Christian Church, Inc. c/o Greg Hamlin, Pastor; Janice Robertson (agent) request a City Conditional Use for Day Care, General, at Faith Christian Church, on property zoned SF-5 Single-family Residential:

Lot 1, except the east 30 feet for street, Enterprise Christian Church Addition to Wichita, Kansas, Sedgwick County, Kansas, generally located on the northwest corner of 45th Street South and Bennett Circle, approximately 1/4 mile east of Meridian Avenue.

BACKGROUND: The applicant is requesting a City Conditional Use for Day Care, General, at Faith Christian Church, on property zoned SF-5 Single-Family Residential (“SF-5”), generally located on the northwest corner of 45th Street South and Bennett Circle, approximately 1/4 mile east of Meridian Avenue. The program currently is operated as the Shirley Mayes Head Start, a Child Start site.

Day, Care, General requires a Conditional Use in the SF-5 District. The Conditional Use approval reviews of the appropriateness of the particular site and evaluates conditions fitting for its specific use. Per the Unified Zoning Code (“UZC”) Article III, Section III-D.6.8, standard requirements for a day care within a church facility are:

1. Compliance with state regulations.
2. Outdoor play in residential areas, limited to the hours of 7:30 a.m. to 6:30 p.m. if located within 100 feet of a lot containing a dwelling unit.
3. Convenient off-street loading facilities shall be provided as required in Sec. IV-A.14 of the UZC. Parking spaces must meet UZC parking requirements but may be shared with parking already provided by the church.

This property is well suited for a day care operation within the church. The proposed site plan and supporting information indicates the day care can accommodate a total of 75 children in the morning and 75 in the afternoon, or a total of 150 children during the day. The Head Start facility is located in a separate building on the north part of the church’s property. The fenced outdoor play area is situated to the northwest of the day care building near the manufactured home park, but the hours of operation of the Head Start program fits within the UZC requirements. Ample parking facilities are provided for those transporting children to the site by car. A separate sidewalk connected to a driveway is used to load and unload children who are transported to the site by bus.

The surrounding land uses are complementary to the location of a day care facility. Two parks and recreation facilities and an elementary school are located to the east, south and southwest. The Southwest Boys Club ball field to the east is on property zoned B Multi-Family Residential (“B”), and a cell tower is located on this property also. Southview Park is located to the south/southwest on property zoned MF-29 Multi-Family Residential (“MF-29”) and Cessna Elementary School is located to the south/southeast on property zoned SF-5. A manufactured home park is located to the north and west on property zoned MH Manufactured Home (“MH”). A masonry screening wall separates the manufactured home park from this property.

CASE HISTORY: The property is platted as Enterprise Christian Church Addition, recorded June 4, 1963.

ADJACENT ZONING AND LAND USE:

NORTH:	MH	Manufactured home park
SOUTH:	SF-5. MF-29	Elementary school, park
EAST:	B	Baseball field, cell tower
WEST	MH	Manufactured home park

PUBLIC SERVICES: The property has access to 45th Street South, a four-lane urban collector serving mostly the institutional uses of the church, school and park and recreation facilities and the manufactured home park abutting the street. 45th Street South connects with Meridian Avenue, an arterial street, ¼ mile west. In 2007, the traffic volume (Annual Average Daily Traffic “AADT”) was 7,211 on Meridian at the intersection with 45th Street South.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide,” 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “institutional.” The proposed Conditional Use is in conformance with this designation.

RECOMMENDATION: Based on these additional conditions plus the information available prior to the public hearing, staff recommends the application be APPROVED subject to the following conditions:

1. The Conditional Use shall comply with Article III, Section III-D.6.i of the UZC.
2. The property shall be developed and maintained in accordance with the site plan.
3. The applicant shall obtain all applicable local and state permits and operate in conformance to state regulations.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding land uses are complementary to the location of a day care facility. Two parks and recreation facilities and an elementary school are located to the east, south and southwest. The Southwest Boys Club ball field to the east is on property zoned B Multi-Family Residential (“B”), and a cell tower is located on this property also. Southview Park is located to the south/southwest on property zoned MF-29 Multi-Family Residential (“MF-29”) and Cessna Elementary School is located to the south/southeast on property zoned SF-5. A manufactured home park is located to the north and west on property zoned MH Manufactured Home (“MH”). A masonry screening wall separates the manufactured home park from this property.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is suited for institutional uses like the church, which is allowed by right in SF-5, or the day care use that requires a Conditional Use.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The day care operation should be complementary to the church use on the site. The potential noise from children at play should be less intrusive to the manufactured home park since the playground is separated by a masonry wall from the residences and because it only occurs during daytime hours where children playing are customary and when supervised by day care staff.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide,” 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “institutional.” The proposed Conditional Use is in conformance with this designation.
5. **Impact of the proposed development on community facilities:** The Conditional Use will allow up to 75 trips per day when the school begins and dismisses, although some of actual volume may be less due to bus transportation of part of the children.

DONNA GOLTRY, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **FARNEY** seconded the motion, and it carried (12-0).

9. **Case No.: CON2009-24** - Hong's Equipment Leasing (Owner) / American Can, c/o John Marx (Applicant) / Baughman Company, c/o Phil Meyer (Agent) request City Conditional Use for wrecking and salvage in LI Limited Industrial zoning on property described as:

Lots 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33, Clay's Addition to The City of Wichita, Kansas, and all of the vacated alley adjacent to said Lots, and the East 0.5 feet of the North 14.02 feet of Lot 2, the East 0.5 feet of Lot 4, and the East 0.5 feet of the South 21.06 feet of Lot 6, Clay's Addition to Wichita; and the vacated alley adjacent to Lot 14, Lot 12, and the North 15.5 feet of Lot 10, Arnold and Clark's Addition to Wichita, Kansas, except for the West 0.4 feet of said vacated alley adjacent on the North 15.5 feet of Lot 10, the West 0.4 feet of said vacated alley adjacent to Lot 12, and the West 0.4 feet of vacated alley adjacent on the South 21 feet of Lot 14, Arnold and Clark's Addition; and a tract of land in the Southeast Quarter of the Northwest Quarter of Section 16, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas described as a tract of land beginning at the Southeast corner of Lot 1, in Clay's Addition, thence South along the West right-of-way for Mead Street to the North right-of-way line for 10th Street, thence West 140 feet, thence North to the Southwest corner of Lot 1, Clay's Addition; thence East along the South line of said Lot 1 to the place of beginning, generally located north of 10th Street North and west of Meade Avenue (720 E 10th Street N.).

BACKGROUND: The applicant is requesting a Conditional Use to permit storage of scrap metal waiting to be processed and storage of bales of scrap metal on the LI Limited Industrial ("LI") zoned 2.26-acres site. The Unified Zoning Code (UZC) definition of a "wrecking/salvage yard" includes the proposed use: "...a lot, land, or structure used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage materials, junk, or discarded materials; and/or for the sale of parts thereof. Typical uses include motor vehicle salvage yards and junkyards." The UZC, Art III, Sec III-D.6.e, requires a Conditional Use for a wrecking/salvage yard in the LI zoning district. The term "wrecking/salvage yard" shall not include the storage of salvage materials as permitted in Section 19-22(c) of the Sedgwick County Code; Art II, Sec II-B.14.q.

Per the UZC, Art II, Sec II-B.14.q, the conditions for Conditional Use for a wrecking/salvage yard in the LI zoning district are:

- (1) Is not abutting an arterial street, expressway, or freeway;
- (2) In the opinion of the Planning Director, will not adversely affect the character of the neighborhood; and
- (3) Is enclosed by a fence or wall not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence.

The site is located between 10th and 11th Streets North, on the west side of Mead Avenue. 10th and 11th Streets are paved and curbed local streets, both ending at the recently raised railroad tracks, located a block west of the site. Mead is an unimproved, gravel and dirt local street. As shown on the site plan, there is an existing 10-foot fence around the proposed storage area. Site inspection reveals a 10-foot tall chain link fence, with three-strands of barbed wire around the proposed storage area; the fencing is not in compliance with UZC, Art II, Sec II-B.14.q.3. The site plan shows a main existing building with parking along the 10th Street side and a small, existing outbuilding. The main existing building will be used to store certain metals; copper, aluminum, etc. The site plan also shows an existing loading dock, two proposed metal storage areas, a proposed container storage area, a bailer and a backhoe. Containers used on the site will be semi trailers and roll off containers. Currently the site looks vacant, with cut wood, a few RVs/campers, a semi-trailer and miscellaneous junk stored on the sand and weedy storage area. The site plan shows no improvements to the storage area's surface. The site plan shows no proposed lighting, but the applicant has stated that there will be directional security lighting on the site. There will be no signage. The site plan shows one gate onto 11th Street and another onto Mead. The applicant has stated that the proposed site will be used as a secondary site to handle the overflow off of their other facilities.

There will be no drop offs at this site from either the public or other businesses and there will be no scales. The site will be open seven days a week, 8:00 A.M. – 5:00 P.M. and have two to four employees on the site.

The area around the site is zoned LI. There are two auto salvage yards and a junk yard located east and northeast of the site, across Mead Avenue. Neither auto salvage yard is screened, but one is fenced. The junk yard has a six-foot metal fence around it, with some stacks of wooden pallets visible above the metal fence. South of the site, across 10th Street, The Yard has a well maintained office-warehouse and storage yard. There is also an office-warehouse, with a loading dock and further south along Mead, outside storage for a welding shop, more auto salvage and office-warehouse. Property abutting the west of the site has a junk yard, an office warehouse and semi-trailers. Property located north of the site, across 11th Street, include Cargill owned grain elevators, with associated trucks, and office – warehouse. Staff found no case history on the existing auto salvage yards and junk yards in the area; these facilities are not in compliance with the UZC. The 1997, 2000, 2003 and 2006 aerials show junk yards and auto salvage yards (including the Mosley Avenue yards, noted below) of varying sizes in the area.

There are more auto salvage yards (two) located along Mosley Avenue, a block east of the site. Mosley marks the east boundary of this LI zoned area. The raised railroad tracks mark the west side of this LI zoned area. The tracks form a physical and visual barrier between this LI area and the mostly residentially zoned area located on the west side of the raised tracks. The east to west streets in this area between Murdock on the south and 13th Street on the north, end at the raised railroad tracks.

CASE HISTORY: The portion of the site proposed to be used for the storage of scrap metal waiting to be processed and storage of the bales was recorded as Lots 1-33, odd, the Clay's Addition, October 16, 1884. The south portion of the site, which contains the existing office building with parking (and a portion of the storage area) is not platted. A 20-foot wide vacated alley, abutting the west side of the site is part of the application area; vacated April 10, 1968.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Grain elevators, office – warehouses
SOUTH:	LI	Office-warehouses, outside storage yard, auto salvage yard
EAST:	LI	auto salvage yards, junk yard
WEST:	LI	Office-warehouse, junk yard, raised railroad tracks

PUBLIC SERVICES: The subject property has direct access to Mead Avenue, 10th and 11th Streets North. 10th and 11th are paved, local streets, both ending at the recently raised railroad tracks and ground level track/right-of-way (ROW), located a block west of the site. 10th Street has 29 - 50 feet of full ROW in this area, between Mosley Avenue and the raised railroad tracks. 11th Street has 50 feet of full ROW in this same area. Mead is an unimproved, gravel and dirt local street, with 60 feet of full ROW. The 2030 Transportation Plan shows no changes to these streets. There are no CIP projects for these streets. No traffic counts are available at this site. However the Mosley Avenue – 13th Street North – Murdock Avenue intersections shows 5,848 – 15,526 trips per day; these roads are the nearest arterials to the site. Bids will open for a CIP on the 13th and Mosley intersection. All utilities are available to the subject site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the general location as appropriate for “Employment/ Industry Center” development. The Land Use Guide identifies salvage yards as appropriate for land identified for “Processing Industry” uses, which promotes more intensive land uses than the “Employment/ Industry Center” classification. There are numerous junk yards and auto salvage yards in this area that are not in compliance with the current UZC, with some being in the area since at least 1997. The applicant’s Conditional Use application for the storage of scrap metal waiting to be processed and storage of the bales, is an attempt to get in compliance with the current UZC; this appears to be the first application in this area of non compliant auto salvage yards and junk yards. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support

services and provide good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to generate travel through less intensive land uses. The proposed site meets these locational guidelines for industrial development, with the raised railroad tracks preventing the expansion of these uses, and their traffic going through and into the residential area located west of the raised railroad tracks.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use shall permit the bailing of scrap metal, the storage of scrap metal waiting to be processed and the storage of scrap metal bales. No drop offs are permitted at this site from either the public or other businesses and there will be no scales permitted. Containers used on the site will be semi trailers and roll off containers. No sale of scrap metal is permitted on-site. In no event shall the Conditional Use authorize auto salvage, auto storage, dismantling of vehicles on the site, sale of vehicle parts on the site, dismantling and/or salvaging of machinery, equipment, bulky waste, salvage materials, junk, storage or bailing of solid waste, scrap paper, rags, or discarded materials; and/or for the sale of parts thereof.
2. The site will be open seven days a week, 8:00 A.M. – 5:00 P.M.
3. Prior to commencing operation permitted by this Conditional Use, the applicant shall contingent dedicate 13 feet of ROW or as needed to align the site's 10th Street North frontage with the abutting western and adjacent eastern properties.
4. The site shall be developed and operated in compliance with all of the conditions of UZC, Art II, Sec. II-B.14.q, including the use of approved fencing or wall materials.
5. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.
6. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.
7. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.
8. No scrap metal waiting to be processed and/or scrap metal bales shall be visible from ground-level view from 10th Street, 11th Street, Mead Avenue or abutting properties.
9. Storage of all of scrap metal waiting to be processed, scrap metal bales and containers shall be in an orderly manner with an exposed perimeter as specified by Environmental Services to prevent rodent harborage and breeding.
10. The applicant shall maintain at all times an active program for the eradication and control of rodents.
11. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
12. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.

13. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.
14. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.
15. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.
16. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.
17. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area around the site is zoned LI. There are two auto salvage yards and a junk yard located east and northeast of the site, across Mead Avenue. Neither auto salvage yard is screened, but one is fenced. The junk yard has a six-foot metal fence around it, with some stacks of wooden pallets visible above the metal fence. South of the site, across 10th Street, the Yard has a well maintained office-warehouse and storage yard. There is also an office-warehouse, with a loading dock and further south along Mead, outside storage for a welding shop, more auto salvage and office-warehouse. Property abutting the west of the site has a junk yard, an office warehouse and semi trailers. Property located north of the site, across 11th Street, include Cargill owned grain elevators, with associated trucks, and office – warehouse. Staff found no case history on the existing auto salvage yards and junk yards in the area; these facilities are not in compliance with the UZC. The 1997, 2000, 2003 and 2006 aerials show junk yards and auto salvage yards (including the Mosley Avenue yards, noted below) of varying sizes in the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LI. A wrecking and salvage yard may be permitted with a Conditional Use in the LI zoning district. Storage of scrap metal waiting to be processed and storage scrap metal bales and containers holding scrap metal is included in the definition of wrecking and salvage yard in the UZC. The site not abutting an arterial street, expressway, or freeway, and is not out of character with the area's existing, non compliant auto salvage yards and junk yards
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on nearby property should be minimized by the recommended conditions of approval, which include screening. Approval of the Conditional Use and its conditions will be a first for the area's existing, non compliant auto salvage yards and junk yards

4. Conformance of the requested change to adopted or recognized Plans/Policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the general location as appropriate for “Employment/ Industry Center” development. The Land Use Guide identifies salvage yards as appropriate for land identified for “Processing Industry” uses, which promotes more intensive land uses than the “Employment/ Industry Center” classification. There are numerous junk yards and auto salvage yards in this area that are not in compliance with the current UZC, with some being in the area since at least 1997. The applicant’s Conditional Use application for the storage of scrap metal waiting to be processed and storage of the bales, is an attempt to get in compliance with the current UZC; this appears to be the first application in this area of non compliant auto salvage yards and junk yards. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to generate travel through less intensive land uses. The proposed site meets these locational guidelines for industrial development, with the raised railroad tracks preventing the expansion of these uses, and their traffic going through and into the residential area located west of the raised railroad tracks.
5. Impact of the proposed development on community facilities: All utilities are available to the site. The use of this property should have limited impact on community facilities, with the exception of the impact on Mead Avenue, which is an unimproved local street with 60 feet of ROW.

FOSTER commented on the ten pages received from Cargill as a hand out on this case and said he assumed these were received after the Staff Report was prepared. He said the “legalize” is confusing.

LONGNECKER responded “yes,” the letter was received after the Staff Report was prepared and mailed out with the meeting agenda. He said Horizon Milling is in opposition of the proposal because they believe this will be a habitat for rats and vermin which are not welcome at milling sites. He said staff has put in the standard conditions for weed and environmental controls to try to keep the site clean so vermin won’t be a concern.

DIRECTOR SCHELGEL asked if City Code required rodent control for salvage yards.

LONGNECKER referenced condition #9 and stated that it would be a code enforcement issue. He added that the “legalize” did not add conditions beyond the conditions recommended by staff. He said basically GBRB are letting the applicant know that beyond the City’s remedy, they are willing to take the applicant to civil court if they can’t keep the site in compliance. He said it was an unusual document and that it was a separate contractual agreement between the applicant and a neighboring business.

HILLMAN referenced item #6 and asked what surface is approved by OCI, since he knows there is loose gravel in the area. He asked if the items would be stored on pallets or directly in contact with the ground.

LONGNECKER said gravel is a typical surface for this type of operation. He added that it is weed free also.

MARNELL commented that in the letter from the milling operation they indicate that the letter from Baughman went to the wrong Cargill address. He asked if this was the address used for the official hearing notice sent to adjacent property owners and if staff had the proper address.

LONGNECKER said the notice was sent to the corporate office as shown on the parcel title.

HENTZEN asked if the rodent control requirements were also applicable to the Cargill mill located across the street from the site.

LONGNECKER said Cargill is operating “by right” in this zoning and that they are up to code.

HENTZEN commented that he worked in flour mills and grain bins during WWII and that he met some pretty big rats at those operations. He said he didn’t know you had to worry about rats in car lots.

FOSTER asked staff if they felt, based upon the letter from the milling operation, that proper notification was given of the case.

LONGNECKER responded yes, the addresses were provided by a certified title company.

HILLMAN said he has a great deal of empathy for the milling operation. He said there are numerous opportunities to harbor rats in the area. He said Central Inspection needs to get out there and correct the other problems in the area.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT said he had a short presentation. He said they have been working with City staff on crafting conditions for the application that would not be lengthy and confusing. He said what is listed in the report is the standard language for all salvage and wrecking yards. He clarified the letter sent to adjacent property owners concerning the type of scrap metal to be processed including appliances. He said because of the appliances, the proposal did not meet the code definition of recycling and processing center, which is permitted “by right” at this location. He said they would be able to recycle cans, copper and other recyclable materials without a conditional use, except for the appliances. He said there will be no public waste items and that material will be trucked on site, bailed, crushed, and stored until marketed. He said there will be no public drop offs or sales from the property. He said as far as rodents are concerned, they will meet the standard conditions for any auto salvage yard as listed in the City Code, which he quoted states in part that stored material will not be in direct contact with the ground. He said they believe the conditions listed in the Staff Report already address concerns regarding rodents. He said they believe this is an appropriate location for this type of operation since the site is tucked away from public view. He commented that one issue that was discussed at the DAB meeting was the proposed screening, and added that is one contention they have with the Staff Report. He said they are proposing the use of fabric screening such as what is used at tennis courts. He said they believe this is a “win-win” situation and mentioned screening on adjacent properties that is substandard and not up to code. He said this compromise position will allow the applicant to utilize the existing 10-foot chain link fence. He referred to several photos-chopped pictures that demonstrated what the screening would look like at various sites around the City. He said although the site will be much more visible, they believe the screening does a pretty good job. In addition, he said they would be willing to meet screening code requirements along the 11th Street frontage. He mentioned that Baughman sent letters to the thirteen property owners adjoining the site, and that the Ownership List and addresses were furnished by First American Title. He said they were not attempting to circumvent anyone’s input and that this was an unfortunate incident that happens from time to time. He concluded by requesting a waiver of the screening.

DIRECTOR SCHLEGEL asked if Baughman and the applicant have discussed the fencing alternative with adjacent property owners.

EWY said it was discussed at the DAB meeting. He said GBRB Properties was present and did not have much of an opinion, he said they were more concerned about the operation itself. He added that the DAB did not support the application.

HILLMAN clarified that there would be solid fencing on 11th Street, adjacent to Cargill.

EWY commented that was one option.

MILLER STEVENS asked about the expected life term of the proposed fabric material.

EWY showed several pictures of the fabric which he said had a life expectancy 5-10 years. He said they discussed wood and stacking bricks, which generally need to be replaced every 5 years. He said this will be an economic advantage to the land owner as well as the fact that it will be quicker to replace than rebuilding. He said they also discussed stackable concrete blocks around the perimeter of the site. He said they felt keeping the 10-foot chain link fence in place was best for everyone's interests including security.

HILLMAN asked why they picked this site in particular; one without an elevated rail system or rail system immediately adjacent to it.

EWY said they will not be shipping by rail, that items will be trucked on and off the site. He said the aerial was old enough that it still included a rail bed, but that there was no rail access south of 11th Street. He said this area was chosen because of its close proximity to other American Can sites and that there are complementary land uses in the area.

STEVE MATSON, HORIZON MILLING, 715 EAST 13th STREET said they own property north and west of the proposed wrecking /salvage yard operation. He mentioned the second paragraph of his letter and said he was explaining his late response to the proposal and was not trying to insinuate any impropriety. He stated that as a food processing plant they strongly oppose having American Can and Scrap adjacent to their facility. He said they are a food company; they make flour that goes to bakeries that in turn use the flour to make the food families all eat – such as a loaf of bread at the local grocery store. He said they receive grain on their property in multiple areas. He said food safety is their number one concern and that their commitment to it is steadfast. He said they cannot and will not compromise on food safety. He said their customers (bakeries and retail stores) rely on them to provide safe, wholesome ingredients for the products they make and sell to families. He said placing a wrecking/salvage yard next to the food processing plant will increase the risk of rodent harborage and activity, directly impacting the food safety at the mill, which produces 2.8 million pounds of flour daily. He said they believe this is an unacceptable risk that will impact people within Wichita and across North America. He said they are also concerned because as many as 150 trucks exit the property everyday and that traveling next to the proposed wrecking/salvage yard will potentially create logistical difficulties and/or damage to vehicles due to the potential increase of debris in the road. He concluded by saying that Cargill is committed to the Wichita community. He said they employ more than 1,200 people in Wichita and contribute thousands of dollars and many volunteer hours to the community each year. He said he hoped the Commission will take their concerns under thoughtful consideration.

MITCHELL said he thought the proposal was a considerable upgrade to what was at the site now.

MATSON said if the conditions are enforced, it could be a great start for the area.

DENNIS said he wanted to “go on record” that although **MR. MATSON** was his neighbor, he did not influence his voting.

FOSTER commented that since materials have to be stored at least 18 inches above ground level that helps him with his decision on this case.

MATSON commented that if material is stored properly it helps tremendously for harborage of rodents. He said Cargill spends quite a bit of money on their program to prevent infestations. He said if the product is stored over 18 inches off the ground, there is a proper barrier and no weeds – opportunity for infestation is much less.

HILLMAN said he appreciated **MR. MATSON's** thoughts on the proposal. He mentioned staff photos of the area which showed tall grass and weeds and commented that the City and Code Enforcement has done a poor job in this area and he apologized.

CHAIRMAN VAN FLEET asked if Cargill would be interested in sharing their anti-rodent plan with the applicant.

MATSON said they would share information with American Can because rodents, pigeons and mice carry bad diseases and are of high concern to flour or food processing plants. He said they have a program of control and prevention and support approved traps which are monitored on a weekly basis. He said if there is ever any increase in activity, they find the cause and eliminate it.

YOGESH PARIKH, 700 EAST 10th STREET, NORTH said his facility is located west of the site. He said from his perspective rodents are not the main concern but vibrations from equipment and debris and small particles of metal that will come to their facility as a result of the proposed use.

FOSTER asked if **MR. PARIKH** had any concerns about the proposed screening.

EWY commented that they have had discussions with **MR. PARIKH** over the past week. He said the bailer could be moved to the north and east further away from the **MR. PARIKH'S** machine shop. He said they don't think that location would interfere with other land uses. He said they could modify the site plan to move the bailer as far away from **MR. PARIKH'S** business as is feasible. He also mentioned that the metal shredder could be excluded at the site.

MARNELL asked for clarification of the fencing/screening.

LONGNECKER stated that alternative screening would be installed on the west and east sides of the site and solid screening on the north.

EWY said they were offering solid screening along 11th Street because it is open to a certain amount of traffic. He said the east and west sides of the site are not going to be in the public view as much as 11th Street.

MARNELL asked if he was misinterpreting the aerial photo, but didn't 11th Street dead end?

EWY explained improvements and curb cuts along 11th Street.

MARNELL said then fundamentally 11th Street is a Cargill truck entrance.

FOSTER mentioned the revised site plan in condition #7 and the valid concern of the neighbor regarding vibration.

EWY said placement of the bailer at the midpoint of the site was so that unprocessed scrap could be on one side and processed scrap metal on the other side. He said as long as the backhoe can pivot on site, the bailer can be placed anywhere on the site that the MAPC considers appropriate. He mentioned the northeast corner.

BILL LONGNECKER, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation with the exception of changing condition #4 and support applicant's use of nylon fencing on all sides of the site (no solid fence on the north); add an additional provision prohibiting a shredder on the site; and that the site plan be worked out with the Planning Director for location of the bailer/crusher.

MARNELL moved, **DOWNING** seconded the motion, and it carried (12-0).

DENNIS said he was going to support the motion. He said even though he is concerned about rodents, he believes this is an improvement in the area. He also mentioned getting OCI in the area to make sure that everyone else is in compliance with the UZC.

B. JOHNSON asked about a provision that if there is a rodent problem, that this conditional use be voided.

LONGNECKER said staff could put more specific language under condition #9 that if rodents do become a problem, that would cause this conditional use to become null and void.

DIRECTOR SCHELGEL said he thought that was covered pretty well under condition #17.

MITCHELL asked how do you find out which lot the rats came from.

LONGNECKER commented that the item will need to go to City Council to ask for a waiver of the screening standards.

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- 10. Case No.: DER2009-00007** - The City of Maize seeks unilateral annexation of various tracts of land located adjacent to the City of Maize - Resolution No. 469-09.

Background: On August 26, 2009, the City of Maize passed Resolution No. 469-09 authorizing a public hearing on August 17, 2009, for the purposes of considering the unilateral annexation of 24 various tracts of lands located adjacent to the City of Maize.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Maize has not submitted to the MAPD, a copy of the service plan describing the extension of services to the annexation areas.

Analysis: Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been determined that 12 of the tracts (located immediately west of Tyler Road, and adjacent to the City of Maize) proposed for unilateral annexation fall outside the City of Maize 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005. Furthermore, these 12 tracts also fall outside Maize's future urbanized growth area as identified in the latest version (August 2006) of the City of Maize Comprehensive Plan Map. Staff has concluded that 12 tracts of land contained within the proposed unilateral annexation by the City of Maize are not consistent with the Wichita-Sedgwick County Comprehensive Plan.

Recommended Action: That the Metropolitan Area Planning Commission pass a motion finding the unilateral annexation proposed by Resolution No. 469-09 of the City of Maize contains 12 tracts of land that are not consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

FOSTER recused himself from this item.

DAVE BARBER, Planning Staff presented the staff report.

BARBER mentioned an error in the report, and that it should read adjacent to “Ridge” Road, not “Tyler” Road. He said the findings and recommendations remain the same.

CHAIRMAN VAN FLEET asked if a representative of the City of Maize was present. No one responded. He also inquired if any audience members wished to speak on the item. No one responded.

DOWNING requested clarification of the motion.

MITCHELL said the motion was to agree with staff that this annexation is not compatible with the Wichita-Sedgwick County Comprehensive Plan.

MOTION: That the unilateral annexation proposed by Resolution No. 469-09 of the City of Maize contains 12 tracts of land that are not consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

MITCHELL moved, **DOWNING** seconded the motion, and it carried (11-0-1).
FOSTER – abstained.

PUBLIC HEARING ITEMS

11. Other Matters/Adjournment

CHAIRMAN VAN FLEET referred Commissioners to the new roster which reflected committee assignments.

The Metropolitan Area Planning Department informally adjourned at 3:25 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2009.

John L. Schlegel, Secretary

September 24, 2009

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Area Planning Commission

(SEAL)